

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DOUGLAS MYRON ALBERTA, #536637,

Petitioner,

v.

WILLIE SMITH,

Respondent.

Case No. 2:11-cv-15174

HONORABLE STEPHEN J. MURPHY, III

**ORDER TRANSFERRING THE PETITION FOR WRIT OF
HABEAS CORPUS TO THE WESTERN DISTRICT OF MICHIGAN**

Petitioner Douglas Myron Alberta has filed a petition for a writ of habeas corpus with this Court pursuant to 28 U.S.C. § 2254. Petitioner is confined at the Carson City Correctional Facility in Carson City, Michigan. His habeas petition challenges a June 4, 2008 jury trial conviction entered in the Montcalm County Circuit Court.

When a habeas petition is submitted by a person in the custody of a state with two or more federal judicial districts, the petition may be filed in either the district where the person is in custody or in the district where the person was convicted and sentenced. 28 U.S.C. § 2241(d). The district in which the petitioner has filed a habeas petition, in the exercise of discretion and in furtherance of justice, may transfer the petition to another district court having jurisdiction over the petition. *Id.*; see also 28 U.S.C. § 1406(a) (district court may dismiss or, in the interests of justice, transfer case with improper venue to district or division where it could have been brought).

Petitioner is confined in Montcalm County, Michigan, which lies in the Southern Division of the Western District of Michigan. See 28 U.S.C. § 102(b)(1). The conviction and sentence he challenges were also rendered in Montcalm County. Venue is not

appropriate in the Eastern District of Michigan because the Petitioner is neither in custody in this district nor was he convicted and sentenced here. Instead, the appropriate venue for the petition is the Western District of Michigan. The Court will therefore transfer Petitioner's case to the Western District of Michigan.

WHEREFORE, it is hereby **ORDERED** that the Clerk of the Court to transfer this case to the United States District Court for the Western District of Michigan, pursuant to 28 U.S.C. § 2241(d).

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: January 22, 2012

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 22, 2012, by electronic and/or ordinary mail.

Carol Cohron
Case Manager